

REMARKS

Claims 19, 23, 24 and 28-33 are pending prior to entering the amendments.

The Amendments

Claim 19 is amended to recite a host potato plant. The amendments incorporate the limitation of canceled Claim 30, which was examined before. Therefore, the amendments do not raise a new issue or require a new search. Claim 19 is further amended to correct the claim language in terms of an antecedent basis.

Claims 29-33 are canceled.

No new matter or new issue is introduced by the above amendments. The Examiner is requested to enter the amendments.

The Response

35 U.S.C. § 112, Second Paragraph Rejection

Claims 19, 23, 24 and 28-33 are rejected under 35 USC §112, second paragraph as being indefinite.

Applicants have amended Claim 19 to correct the antecedent basis.

Applicants have canceled Claims 29-33.

Therefore, the §112, second paragraph rejection of Claims 19, 23-24, and 28 should be withdrawn.

35 U.S.C. §112, First Paragraph Rejection

Claims 19, 23-24, and 28-33 are rejected under 35 U.S.C. §112, first paragraph. Claims 29-33 are canceled. The rejection of the remaining claims is overcome in view of the amendments.

The Examiner states that the specification, while being enabling for a host plant potato, does not reasonably provide enablement for the broad scope of the claims, because potato plants are not representative of all plants. To further the allowance of this application, Applicants have amended Claim 19 to recite a transgenic host potato plant.

Applicants also wish to point out that the protein expression under anaerobic conditions in transgenic potato plants is not tissue-specific. For example, in USPN 6,194,201 (cited by the

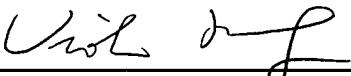
Examiner in a prior Office Action), at column 2, lines 30-31, the reference discloses that the promoter is active in all tissues such as the flower or blossom, leaf and root.

Therefore, the §112, first paragraph rejection of Claims 19, 23-24, and 28 should be withdrawn.

CONCLUSION

The Applicants believe that the application is in good and proper condition for allowance. Early notification of allowance is earnestly solicited. The Examiner is invited to telephone the undersigned if further discussion should facilitate moving this application to allowance.

Respectfully submitted,



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